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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/527,989

10/13/2005

Peter Forsell

2333-137

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EXAMINER

STOKLOSA, JOSEPH A

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

06/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/527,989 | Applicant(s) FORSELL, PETER | |
| | Examiner JOSEPH STOKLOSA | Art Unit 3762 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/2/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/7/2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 8, 10, 12-14, 16, 18, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zarinetchi et al. (US 6,324,430) in view of Chen et al. (US 5,741,316).22

4. Zarinetchi discloses a transcutaneous energy transfer system with a shielding member for surrounding external primary recharging coil. Zarinetchi discloses the primary coil, Fig. 1, element 10, containing a front end directed toward the subcutaneous receiving coil and a rear end that is directed away from the receiving coil and towards the top of the shield member. Zarinetchi discloses a shield, Fig. 1, element

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16, that is surrounds the coil completely except for the front end where perforations and open recesses allow for ventilation (Figs. 2-5; Col. 3, lines 28-33; Col. 4, line 5-68).

5. Zarinetchi fails to explicitly teach the use of a magnetizable core that wholly extends along the longitudinal length of the coil, in the power transmission coil. Chen teaches that it is known to use a magnetizable core in the transmission coil as set forth in Col. 4, line 64-66 for providing the predictable results of enhancing the magnetic induction and power transfer as well as providing for alignment between the implanted coil and external coil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Zarinetchi with using a magnetic core that wholly extends along the longitudinal length of the coil since such a modification would provide the predictable results of enhancing the magnetic induction and power transfer as well as providing for alignment between the implanted coil and external coil.

6. With regards to claim, 4, Zarinetchi discloses the shield be magnetic. Examiner considers the integral shield and casing to be one in the same and formed integrally. Accordingly, Zarinetchi discloses a magnetizable casing integrally formed with the shield.

7. With regard to claim 6, Zarinetchi discloses the shield/casing to completely surround the coil. Examiner considers the top/rear portion to be a gable wall joined to the side cylindrical wall.

8. With regard to claim 8, Zarinetchi discloses the shield to be made of either a ferrite powder/silicon rubber polymer or a hard ferrite (Col. 4, line 63-64; Col. 3, line 66)

9. Claims 5, 7, 11, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zarinetchi as applied above.

10. With regard to claim 11, Zarinetchi fails to disclose the use of two transmitters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system with the use of two transmitters since such a modification would provide the predictable results of allowing for simultaneous recharging of implanted medical device for example dual cochlear implants with two behind the ear units to recharge the implanted cochlear stimulators.

11. With respect to claims 5, 7, 15, and 17 Zarinetchi discloses the invention as claimed but fails to teach the core longitudinally extending beyond the length of the shield and cut out slots on the sides of the shield. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Zarinetchi with providing cut out slots on the side of the shield which would yield a system where the core and coil windings extend longitudinally beyond the shield for providing the predictable results of providing ventilation for the skin surface and dissipation of any excess heat energy stored within the shield member.

12. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zarinetchi as applied above in view of Winkler (US 5,527,348).

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13. Zarinetchi discloses the invention as claimed, but fails to teach a plastic casing surrounding the shielding that places the coil and core at a distance in the order of centimeters away from the user's hand. Winkler teaches that it is known to use a plastic casing to house the external coil assembly and would place the users hand at a distance on the order of centimeters away from the coil as set forth in Col. 4, line 35-48 and Figs. 1-2 for providing the predictable results of creating a more aesthetically pleasing unit by covering the internal components as well as providing a buffer between the operator's hand and the magnetic field created by the coil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Zarinetchi with the use of a plastic housing that places the coil away from the users hand at a distance of the order of centimeters since such a modification would provide the predictable results of creating a more aesthetically pleasing unit by covering the internal components as well as providing a buffer between the operator's hand and the magnetic field created by the coil.

Response to Arguments

14. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH STOKLOSA whose telephone number is (571)272-1213. The examiner can normally be reached on Monday-Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George R Evanisko/
Primary Examiner, Art Unit 3762

Joseph Stoklosa
Examiner
Art Unit 3762

/Joseph Stoklosa/
Examiner, Art Unit 3762
6/18/2008